

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DEREK M. SMITH,

Plaintiff,

v.

MARGRET MIMMS,

Defendant.

Case No. 1:22-cv-01638-EPG (PC)

ORDER DIRECTING THE CLERK OF  
COURT TO CLOSE THE CASE

(ECF No. 8)

On January 27, 2023, Plaintiff filed a notice voluntarily dismissing this action without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). (ECF No. 8). Therefore, this action has been terminated.<sup>1</sup> Fed. R. Civ. P. 41(a)(1)(A)(i); *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Accordingly, the Clerk of Court is DIRECTED to close this case.

IT IS SO ORDERED.

Dated: **January 31, 2023**

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE

<sup>1</sup> The Court notes that the dismissal is automatically without prejudice, unless Plaintiff previously dismissed a federal or state court action that is based on, or includes, the same claims at issue in the present case. *See* Fed. R. Civ. P. 41(a)(1)(B) (“Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.”). Thus, although Plaintiff’s case is voluntarily dismissed, it is unclear, and the Court does not decide, whether the voluntary dismissal is with or without prejudice.